

REMARKS

Claims 7, 9, 12 and 15-18 have been cancelled, and claims 1-6, 8, and 13-14 have been amended to more definitely set forth the invention and obviate the rejections. In addition, new claims 20-28 have been presented. Support for the amendment of claim 1 can be found in original claim 7. Support for the amendment of claim 8 can be found in original claims 9 and 12. Support for the subject matter of new claims 20-28 can be found in the Specification on page 9, lines 5-6, page 10, lines 10-14, page 11, lines 2-4 and 9-11, page 13, lines 2-4, page 17, lines 8-13, page 18, lines 14-18, and page 19, lines 3-5. The present amendment is deemed not to add new matter. Claims 1-6, 8, 10-11, 13-14 and 19-28 are now in the application.

Reconsideration is respectfully requested of the rejection of claims 1-19 under 35 U.S.C. 102(b) as being anticipated by JP 1-178596.

The cited JP 01-178596 reference, owned by Shiseido Co., Ltd. the current assignee herein, discloses a detergent composition comprised of:

- (A) an alkyloylalkyltaurine salt anionic surfactant;
- (B) an alkyl glucoside;
- (C) an amphoteric surfactant;

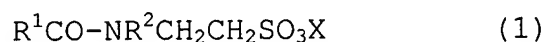
- (D) a higher alcohol;
- (E) an oil component;
- (F) a water soluble polymer; and
- (G) a cationic polymer.

In particular, the Examiner has cited Example 5 thereof, which pertains to a paste detergent composition manufactured with the following formula:

5 mass% myristoylmethyl taurine-K  
5 mass% alkyl glucoside (n=8, a=10)  
10 mass% potassium myristate  
10 mass% potassium stearate  
1 mass% bees wax  
5 mass% glycerol  
5 mass% polyethylene glycol  
Appropriate amounts of perfume  
Residual ion exchange water

In the above paste detergent composition specifically cited by the Examiner, the potassium myristate and potassium stearate (metal soaps) serve as the main surfactants and together constitute 20 mass% of the composition. In contrast, the present

invention, as claimed in claim 1, utilizes, as the main surfactant, 5-50 mass % of an acyl salt anionic surfactant represented by the following general formula (1):



(In this formula,  $R^1$  denotes a hydrocarbon group having 10-24 carbons,  $R^2$  denotes a hydrogen atom or methyl group, and X denotes an alkali metal, alkali earth metal, ammonium, or organic amine). Such an acyl salt anionic surfactant is disclosed only as a secondary, non-essential surfactant in the '596 reference, and is always present in a larger amount than secondary surfactants, such as the metal soaps disclosed in the '596 reference.

Further, the '596 reference fails to disclose the inclusion one or more of taurine, N-methyltaurine, and N,N-dimethyltaurine, or taurines and nonionic surfactants having a HLB of 10 or more, in combination with elements (a)-(d), as now claimed herein in amended base claims 1 and 8, respectively. In view of these deficiencies of the cited '596 reference, it is believed that the '596 reference fails to anticipate the present invention as now claimed herein. Withdrawal of the rejection is accordingly respectfully requested.

Reconsideration is respectfully requested of the rejection of claims 1-19 under 35 U.S.C. 102(b) as being anticipated by JP 58-101197.

The cited JP 58-101197 reference discloses a creamy detergent composition comprising, as surfactants, a phosphate surfactant and a taurate surfactant. In particular, a creamy detergent is disclosed comprising sodium methyl myristoyl taurate, sodium chloride, polyethylene glycol, glycerin, and water (see International Search Report of corresponding International application No. PCT/JP03/01298).

The Examiner has specifically cited the following cream detergent composition in Example 6 of the '197, which includes the following ingredients:

30 mass% sodium monolaurylphosphate  
10 mass% sodium monomyristylphosphate  
6 mass% sodium N-myristoyl methyl taurine  
7 mass% sodium chloride  
7 mass% polyethylene glycol  
10 mass% glycerol  
0.3 mass% perfumes  
residual water

In the above cream detergent composition specifically cited by the Examiner, the sodium monolaurylphosphate and the monomyristylphosphate serve as the main surfactants and together constitute 40 mass% of the composition. In contrast, the present invention, as claimed in claim 1, utilizes, as the main surfactant, 5-50 mass % of an acyl salt anionic surfactant represented by the following general formula (1):



(In this formula,  $R^1$  denotes a hydrocarbon group having 10-24 carbons,  $R^2$  denotes a hydrogen atom or methyl group, and X denotes an alkali metal, alkali earth metal, ammonium, or organic amine). Such an acyl salt anionic surfactant is disclosed only as a secondary, non-essential surfactant in the '596 reference, and is always present in a larger amount than secondary surfactants, such as the metal soaps disclosed in the '596 reference.

Further, the '197 reference fails to disclose the inclusion one or more of taurine, N-methyltaurine, and N,N-dimethyltaurine, in combination with elements (a)-(d), as now claimed herein in amended base claims 1, or taurines and nonionic surfactants having a HLB of 10 or more in combination with elements (a)-(d), as now claimed herein in amended based claim 8. In view of these

deficiencies of the cited '596 reference, it is believed that the '197 reference fails to anticipate the present invention as now claimed herein. Withdrawal of the rejection is accordingly respectfully requested.

Reconsideration is respectfully requested of the rejection of claim 1, 3-5, 7-12 and 15-18 under 35 U.S.C. 103(a) as being unpatentable over Miyahara, et al. (2001/0021691).

The Miyahara, et al. reference, which is owned by Shiseido Co., Ltd., the current assignee herein, discloses cleansing agents which are highly effective for makeup removal and have excellent lathering characteristics. In particular, the cleansing agents of Miyahara, et al. comprise surfactants, in combination with polyoxyalkylene dicarboxylic acid esters, to provide a cleansing agent that, while being able to dissolve coats of makeup cosmetics with cleaning oils, retains excellent lathering characteristics.

However, as the Examiner has recognized, and as stated in the first paragraph on page 4 of the instant Office Action, Miyahara, et al. do not teach with sufficient specificity each of the claimed components herein. Nor do Miyahara, et al. teach the unexpected results obtained by providing a paste or solid cleaning agent comprised of ingredients (a)-(e) as called for herein in base claims 1 and 8.

In particular, the present inventors prepared numerous test compositions, and conducted numerous tests to determine the Kraft point of the test compositions, the external stability of the test composition after one week at 45°, the tingling sensation experienced by a user during use of the test compositions, foaming characteristics of the test compositions, smoothness at time of rinsing of the composition, moist sensation of the skin after drying, smoothness of the skin after drying, pH of the test composition, foam quality of the composition, refreshing sensation at the time of rinsing, and temperature dependence of the hardness.

As shown in Table 2, for Experimental Examples 1-12, when polyethylene glycol was used in the claimed combination in an amount of 20 mass%, as claimed in new claim 22, the cleaning agent composition had a high Kraft point, good external appearance stability after 1 week at 45°, and a reduced tingling sensation during use. Likewise, Examples 13-27, prepared according to the present invention, exhibit similar characteristics.

With regards to the amount and quality of foam produced by the cleaning agent of the present invention, Experimental Examples 28-33 were prepared, as described on pages 24-25, and as shown in Table 4a on page 34 of the instant application. As shown

therein, it was unexpectedly discovered that satisfactory amounts and quality of foam are produced by the cleaning agent of the present invention within a pH range of 4.8-5.9.

Further, as shown in Table 5a, and as discussed on page 36, first paragraph, Examples 1 and 2, containing the claimed ingredient (a) of claim 1 within the claimed mass% range, exhibit superior temperature dependence of the hardness, external appearance stability after 1 week at 45°, usability of the foam, smoothness at the time of rinsing, moist sensation after drying, and smoothness after drying, in comparison to Comparative Examples 1-4.

With regards to the composition of amended base claim 8, tests were conducted to determine the stability, foaming and usability of same, the results of said test being shown in Table 1b on page 44, and as shown in Table 2b on page 45. As discussed on page 44, lines 2-14, it was unexpectedly discovered that, by combining two anionic surfactants (sodium lauroyl methyltaurate and sodium myristoyl methyltaurate) as ingredient (a) with sodium chloride as ingredient (b), glycerin as ingredient (c), and water as ingredient (d), exhibits superior stability, good foaming and a refreshing sensation during use.

In contrast, Comparative Examples 1-4, failed to simultaneously exhibit good stability, good foaming and a



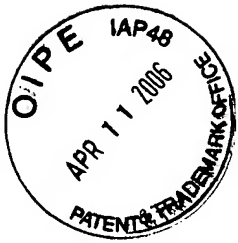
refreshing sensation during use. Comparative Example 4, which contained solely an anionic surfactant (sodium myristoyl glutamate), had good stability and a refreshing sensation, but exhibited poor foaming ability. Importantly, as illustrated in Tables 3b and 4b on pages 52 and 53 of the instant application, it was unexpectedly discovered that, in contrast to Comparative Examples 1-V which only contained claimed ingredients (a)-(d), compositions additionally containing taurine as ingredient (e), in combination with claimed elements (a)-(d) (see Examples I-III therein) exhibit superior stability, foaming, and usability (refreshing sensation), AS WELL AS little tingling sensation during use, high foaming quality (creaminess), and excellent external appearance stability after 1 week at 45°.

Proof of an unexpected improvement can rebut a *prima facie* case of obviousness. *In re Murch* 464 F2d 1051, 175 USPQ 89 (CCPA 1972); *In re Costello* 480 F2d 894, 178 USPQ 290 (CCPA 1973). As discussed above, the present inventors unexpectedly discovered that superior stability, reduced tingling sensation experienced by a user during use, superior foaming, superior smoothness at time of rinsing, superior moist sensation of the skin after drying, superior smoothness of the skin after drying, superior foam quality of the composition, an improved refreshing sensation at the time of rinsing, and superior temperature dependence of the

hardness of the composition of the present invention can be obtained when combining claimed elements (a)-(e) of base claims 1 and 8 in the manner now claimed herein. It is believed that Miyahara, et al. fail to teach or suggest such unexpected improvements as discussed above.

In view of the deficiencies of the cited Miyahara, et al. reference, the unexpected improvements of the composition as now claimed herein, and the amendments to base claims 1 and 8 made herein, it is believed that the Examiner would now be justified in no longer maintaining the rejection. Withdrawal of the rejection is accordingly respectfully requested.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action and allowance thereof is accordingly respectfully requested. In the event there is any reason why the application cannot be allowed at the present time, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems.



DOCKET NO. TOS-164-USA-PCT

Respectfully submitted,

TOWNSEND & BANTA

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Date: April 6, 2006

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### CERTIFICATE OF MAILING

I hereby certify that this Amendment in Docket No. TOS-164-USA-PCT, Serial No. 10/517,147, filed December 7, 2004, is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on April 6, 2006.

Donald E. Townsend, Jr.

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